

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #6	CCRB Case #: 201707743	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/13/2017 7:51 PM	Location of Incident: 215 East 102nd Street	Precinct: 23	18 Mo. SOL 3/13/2019	EO SOL 3/13/2019	
Date/Time CV Reported Tue, 09/19/2017 2:49 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 09/19/2017 2:49 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Moroni	24187	946607	GANG MN
2. POM Daniel Callinan	17721	945542	GANG MN

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Callinan	Abuse: Police Officer Daniel Callinan frisked § 87(2)(b)	
B.POM Christopher Moroni	Force: Police Officer Christopher Moroni used physical force against § 87(2)(b)	
C.POM Christopher Moroni	Abuse: Police Officer Christopher Moroni threatened § 87(2)(b) with the use of force.	
D.POM Daniel Callinan	Force: Police Officer Daniel Callinan used physical force against § 87(2)(b)	
E.POM Daniel Callinan	Force: Police Officer Daniel Callinan used a chokehold against § 87(2)(b)	
F.POM Daniel Callinan	Force: Police Officer Daniel Callinan restricted § 87(2)(b)'s breathing.	

Case Summary

On September 19, 2017, Suzie § 87(2)(b) filed this complaint on the CCRB website on behalf of § 87(2)(b) did not witness the incident.

On September 13, 2017, at approximately 7:51 p.m., in the vicinity of 230 East 102nd Street, in Manhattan, § 87(2)(b) was riding his bicycle on the sidewalk when he was stopped by PO Daniel Callinan and PO Christopher Moroni, of the Manhattan North Gang Squad. PO Callinan asked § 87(2)(b) for his ID, which he provided. PO Callinan frisked § 87(2)(b)'s waistband and left ankle (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Callinan asked § 87(2)(b) what was in his sock, referring to a bulge created by a pack of cigarettes and a pill bottle. As § 87(2)(b) bent over to retrieve the items in his sock, PO Moroni punched the right side of his face three times (**Allegation B: Force**, § 87(2)(g)). § 87(2)(b) tried to get away from the officers, but PO Callinan grabbed his shirt and pulled it over his head. PO Moroni threatened to shoot § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)). PO Callinan brought § 87(2)(b) to the ground (**Allegation D: Force**, § 87(2)(g)). On the ground, PO Callinan placed his arm around § 87(2)(b)'s neck in a chokehold, restricting his breathing (**Allegation E and F: Force**, § 87(2)(g)). § 87(2)(b) was placed under arrest for § 87(2)(b).

Video footage was obtained from NYCHA's George Washington Houses. However, the video did not capture this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Daniel Callinan frisked § 87(2)(b)

This allegation was discussed with a CCRB attorney.

§ 87(2)(b) was interviewed at the CCRB on October 23, 2017 (Board Review 01) and answered questions in a follow up call on October 31, 2017 (Board Review 02). On September 13, 2017, at approximately 7:51 p.m., § 87(2)(b) was riding his bike on the sidewalk on East 102nd Street, between 2nd Avenue and 3rd Avenue, in Manhattan. PO Callinan approached § 87(2)(b) and asked him why he was riding his bike on the sidewalk. § 87(2)(b) immediately got off his bike. PO Callinan asked § 87(2)(b) for his identification, which he provided. PO Callinan asked § 87(2)(b) what he was doing, and § 87(2)(b) told PO Callinan he was looking for a friend who usually sits on a bench outside the George Washington Houses. PO Callinan began frisking § 87(2)(b) patting his waistband and under his fanny pack. PO Callinan then frisked § 87(2)(b)'s left ankle, where he was storing a pack of cigarettes and a pill bottle with over the counter Tylenol inside. PO Callinan asked § 87(2)(b) what was in his left sock.

PO Daniel Callinan was interviewed at the CCRB on March 28, 2018 (Board Review 03). On September 13, 2017, PO Callinan and PO Moroni were assigned to gang enforcement regarding an ongoing investigation into violence between the Washington Houses and the East River Houses. PO Callinan and PO Moroni were standing in the middle of the sidewalk when § 87(2)(b) came at a high rate of speed on a bike down the sidewalk, almost hitting them. PO Callinan jumped out of § 87(2)(b)'s way. PO Callinan stopped § 87(2)(b) presented his police ID, and asked § 87(2)(b) to step off his bike. PO Callinan told § 87(2)(b) that he almost hit him and § 87(2)(b) apologized. PO Callinan asked for § 87(2)(b)'s ID. § 87(2)(b) took his ID from his wallet and held it in his right hand. PO Callinan reached for § 87(2)(b)'s ID, but § 87(2)(b) pulled his ID back and did not hand it to PO Callinan. PO Callinan asked § 87(2)(b) for his ID. § 87(2)(b)

backed up and told PO Callinan that it was not a big deal and he did not want a ticket. PO Callinan reiterated that § 87(2)(b) almost hit him with the bike and that he needed to see his ID. § 87(2)(b) refused to provide his ID again, started “blading his body,” and clenching his left hand. § 87(2)(b) was “blading his body” by sinking one hip back and turning his body. These actions caused PO Callinan to be concerned for his own safety. PO Callinan did not remember anything else that made him concerned for his safety. PO Callinan did not remember seeing any bulges on § 87(2)(b). PO Callinan instructed § 87(2)(b) to turn around and put his hands on the iron gate at the edge of the sidewalk. § 87(2)(b) complied and put both hands on the gate, one of which was still holding his ID. PO Callinan grabbed the back of § 87(2)(b)’s waistband to hold him still. PO Callinan grabbed § 87(2)(b)’s waistband as a precaution in case § 87(2)(b) moved. PO Callinan did not recall making any other physical contact with § 87(2)(b). PO Callinan did not remember frisking § 87(2)(b).

PO Christopher Moroni was interviewed at the CCRB on February 1, 2018 (Board Review 04). PO Moroni and PO Callinan were stationary in their vehicle when they first observed § 87(2)(b) riding his bike on the sidewalk. PO Moroni did not believe that § 87(2)(b) had a weapon. PO Moroni and PO Callinan exited their vehicle and approached § 87(2)(b) on foot and stopped him. § 87(2)(b) initially resisted getting off his bike. PO Moroni did not remember if he or PO Callinan instructed § 87(2)(b) to get off his bike, but one of them did so once or twice before § 87(2)(b) complied. PO Callinan instructed § 87(2)(b) to place his hands on a fence next to where he and the officers were standing. PO Moroni denied that the officers had any conversation with § 87(2)(b) before he was instructed to place his hands on the fence. PO Moroni did not remember if § 87(2)(b) was asked to provide his ID before being instructed to place his hands on the fence. § 87(2)(b) complied, but then kept taking his hands off the fence, turning his body, and asking the officers what was going on. PO Moroni thought § 87(2)(b) might have been trying to “blade his body” to block the officers from something that could harm them. PO Moroni suspected that § 87(2)(b) may have had something that could harm the officers because § 87(2)(b) was agitated, nervous, and turning his body. There was nothing else that made PO Moroni concerned that § 87(2)(b) might have something that could harm the officers. PO Moroni never observed any bulges on § 87(2)(b). PO Moroni believed that § 87(2)(b) might have a weapon, but did not suspect he had any specific type of weapon. PO Callinan tried to frisk § 87(2)(b) and placed his hand on § 87(2)(b)’s wrist area. PO Moroni did not remember seeing PO Callinan frisk § 87(2)(b)’s ankle. Immediately when PO Callinan placed his hand on § 87(2)(b)’s arm, § 87(2)(b) turned around and “took a swing” at PO Callinan.

The courts have held that, in order to frisk an individual, an officer is required to have reasonable suspicion of an individual’s involvement in criminal activity, and then the knowledge of some fact or circumstance that supports a reasonable suspicion that the suspect is armed or poses a threat to safety, Matter of Darryl C., 98 A.D.3d (Board Review 05), People v. De Bour, 40 N.Y.2d 210 (Board Review 06).

In People v. Nichols, the courts found that officers were justified in conducting a limited weapons frisk after the defendant was detained for a simple violation because the defendant was uncooperative and exhibited extreme agitation, People v. Nichols, 250 A.D.2d 370 (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Police Officer Christopher Moroni used physical force against § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Christopher Moroni threatened § 87(2)(b) with the use of force.

Allegation (D) Force: Police Officer Daniel Callinan used physical force against § 87(2)(b)

§ 87(2)(g) It is undisputed that PO Callinan brought § 87(2)(b) to the ground.

§ 87(2)(b) (Board Reviews 01 and 02) bent over to retrieve the items in his sock and show PO Callinan. As § 87(2)(b) bent over, PO Moroni punched § 87(2)(b)'s face three times. § 87(2)(b) tried to get away from the officers and moved a few steps to the west on East 102nd Street. PO Callinan grabbed § 87(2)(b)'s shirt and pulled it over his head. PO Moroni told § 87(2)(b) "I'll shoot you," two times as he tried to get away and PO Callinan had his shirt over his head. PO Moroni grabbed § 87(2)(b)'s legs and PO Callinan grabbed § 87(2)(b)'s torso, bringing him to the ground. § 87(2)(b) landed face first on the ground. § 87(2)(b) sustained abrasions to his face, knees, and elbows when he fell to the ground. § 87(2)(b) denied doing anything physically on the ground as he was being restrained by officers. § 87(2)(b) denied that he ever bit or punched the officers. § 87(2)(b) did not allege that he was punched by an officer while he was on the ground.

PO Moroni (Board Review 04) stated that § 87(2)(b) "took a swing" at PO Callinan and punched him in the chin. After punching PO Callinan, § 87(2)(b) started to run southbound into the NYCHA development. PO Moroni did not punch § 87(2)(b) before he was on the ground. An officer grabbed § 87(2)(b)'s shirt when he was trying to get away, but PO Moroni did not remember who grabbed the shirt. PO Moroni and PO Callinan struggled with § 87(2)(b) and eventually brought him to the ground. PO Callinan grabbed § 87(2)(b) from behind, wrapping both arms around his stomach. PO Moroni grabbed § 87(2)(b)'s shoulder area. § 87(2)(b) was flailing his arms and "throwing elbows." PO Moroni did not know if § 87(2)(b)'s elbows ever made contact with him or PO Callinan. § 87(2)(b) landed face down on the ground. PO Callinan landed on the left side of § 87(2)(b)'s body, and PO Moroni landed on the right side of § 87(2)(b)'s body. On the ground, § 87(2)(b)'s arms were under his body near his stomach and chest. PO Moroni kept telling § 87(2)(b) to stop resisting and give up his hands. As PO Moroni was attempting to move § 87(2)(b)'s right arm behind his back, § 87(2)(b) bit PO Moroni's right hand, in the knuckle area, for one or two seconds. PO Moroni immediately punched § 87(2)(b) in the face using his right hand two or three times because he did not want § 87(2)(b) to bite him again. PO Moroni denied that he ever threatened to shoot § 87(2)(b).

PO Callinan (Board Review 03) stated that § 87(2)(b) "took a swing" at him with his right hand and grazed PO Callinan's chin. PO Callinan immediately grabbed § 87(2)(b)'s upper

body and brought § 87(2)(b) to the ground. § 87(2)(b) landed face down on the ground and PO Callinan landed face down on top of § 87(2)(b). PO Callinan did not have control of § 87(2)(b)'s hands at this point. § 87(2)(b) was struggling on the ground and trying to get back up. Approximately five seconds after they went to the ground, § 87(2)(b) got up off the ground by pushing himself up with his hands. § 87(2)(b) tried to run away, but PO Callinan was holding onto the back of his shirt. PO Callinan took § 87(2)(b) to the ground a second time by grabbing his upper body and using his body weight to pull him to the ground. PO Callinan did not remember if PO Moroni assisted in bringing § 87(2)(b) to the ground. § 87(2)(b) landed face down with his hands under his body. PO Callinan held § 87(2)(b) down by putting his arms on § 87(2)(b)'s hips and his left shin on § 87(2)(b)'s cheek. § 87(2)(b) was still trying to “squirm” and get back up. PO Callinan was on top of § 87(2)(b) and on his left side, trying to get control of his left arm. PO Moroni was on § 87(2)(b)'s right side attempting to gain control of § 87(2)(b)'s arm. As PO Moroni was attempting to gain control of § 87(2)(b)'s right arm, § 87(2)(b) bit PO Moroni's hand. Approximately 20 seconds after they went to the ground the second time, PO Callinan and PO Moroni got control of § 87(2)(b)'s hands and handcuffed them behind his back. PO Callinan did not remember PO Moroni using any additional force against § 87(2)(b) while they were on the ground. PO Callinan did not remember PO Moroni punching § 87(2)(b). PO Callinan did not hear § 87(2)(b) complain that PO Moroni punched him in the face. PO Callinan denied that PO Moroni ever threatened § 87(2)(b) with the use of force.

Both the TRI report for force used by PO Moroni (Board Reviews 08 and 09) and PO Callinan (Board Reviews 10 and 11) indicated that § 87(2)(b) used force against officers. Specifically it noted § 87(2)(b) used a hand strike, pushing, shoving, wrestling, and grappling. Both TRI reports also noted that the force used by officers was a hand strike and forcible takedown in defense of self-defense of another officer, and to overcome resistance or aggression. Both reports noted § 87(2)(b) sustained minor contusions and lacerations as a result of intentional actions by officers.

Medical records received from § 87(2)(b) (Board Reviews 12 and 13) regarding § 87(2)(b)'s Correctional Pre Arraignment Screening noted that § 87(2)(b) had abrasions to his face and shoulder. § 87(2)(b) refused to be seen by EMS in the field and refused further medical treatment during the screening.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of the service should consider actions taken by the subject, whether the subject is actively resisting, and whether the subject is attempting to evade arrest by flight, Patrol Guide Procedure 221-01, “Force Guidelines” (Board Review 14).

When a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should apply no more than the reasonable force necessary to gain control, and assess the situation continually and adjust the use of force as necessary, Patrol Guide Procedure 221-02, “Use of Force” (Board Review 15).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

[illegible]

Allegation (F) Force: Police Officer Daniel Callinan restricted § 87(2)(b) s breathing.

PO Callinan (Board Review 03) estimated that, after they went to the ground, it took 20 seconds for him and PO Moroni to gain control of § 87(2)(b)'s hands and place him into handcuffs. PO Callinan denied that he ever made contact with § 87(2)(b)'s neck. PO Callinan never made contact with § 87(2)(b)'s wind pipe or put pressure on § 87(2)(b)'s windpipe. PO Callinan never restricted § 87(2)(b)'s breathing in any way. PO Callinan never put his arm around § 87(2)(b)'s neck or placed § 87(2)(b) into a chokehold. § 87(2)(b) never complained that he was unable to breathe.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- 7
- PO Callinan has 33 allegations stemming from eight complaints over his 10 year tenure with the NYPD, three of which were substantiated. PO Callinan had two previous frisk allegations, which were exonerated, and one frisk allegation is currently under investigation in CCRB case number 201801182. PO Callinan had four previous force allegations, one of which was substantiated, as discussed below.
 - In CCRB case number 201200276, an allegation of physical force was substantiated. PO Callinan was found not guilty in an APU trial.
 - § 87(4-b), § 87(2)(g)
 - In CCRB case number 2016103825, two retaliatory summons allegations were substantiated and Command Discipline A was recommended.
 - PO Moroni has 33 allegations stemming from 12 complaints over his nine year tenure with the NYPD, five of which were substantiated. PO Moroni had four previous force allegations and one previous threat of force allegation, none of which were substantiated.
 - In CCRB case number 201210366, a stop allegation was substantiated and command discipline was recommended. The NYPD disposition was no disciplinary action. However, PO Moroni received Command Discipline B for failure to prepare a memo book entry.
 - In CCRB case number 201510484, a stop, frisk, and strip search allegation were all substantiated. § 87(4-b), § 87(2)(g) PO Moroni received Command Discipline B as a result.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) was arrested without being issued a DAT.

§ 87(2)(b), § 87(2)(c)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date